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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,882	10/04/2000	Timothy Lang	A20-015	5846

7590 11/14/2002

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EXAMINER

LILLING, HERBERT J

ART UNIT PAPER NUMBER

1651

DATE MAILED: 11/14/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.



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Commissioner of Patents and Trademarks

The reply filed on October 24, 2002 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicant has failed to elect one of the two Inventions as recited in the previous office action. The amendment to the claims does not change the previous requirement which remains as stated. In addition, Applicant has failed to elect a species as noted:

This application contains claims directed to the following patentably distinct species of the claimed invention:

- A. Whereby the food supplement is selected from
 - I. First type selected from the group consisting of
 - i. Citrus
 - ii. tomato
 - iii. carrot
 - iv. mango
 - v. papaya
 - vi. banana
 - vii. pineapple
 - viii. kiwi fruit
 - ix. spinach.
 - II. Second type from the group:
 - w. melon
 - x. grape
 - y. apple
 - z. cranberry.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for each of the above Types I and II. for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).


Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a

rejection under 35 U.S.C. 103(a) of the oth ention.

• See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lilling whose telephone number is (703) 308-2034 and Fax Number is for applications Before Final (703) 872-9306 and After Final for applications is 703-872-9307 or SPE Michael Wityshyn whose telephone number is (703) 308-4743. Examiner can be reached Monday-Thursday from about 5:30 A.M. to about 3:00 P.M. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

H.J.Lilling: HJL
(703) 308-2034
Art Unit 1651
November 12, 2002


HERBERT J LILLING
Primary Examiner
Art Unit: 1651

Ser. No 09/647882